

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

---

ANN BOYNTON,

Plaintiff,

-against-

OCCUPATIONS, INC. and MUTUAL OF  
OMAHA INSURANCE COMPANY,

Defendants.

---

"ECF CASE"

07 CV \_\_\_\_\_

**07 CIV. 8321**

**JUDGE ROBINSON**

FILED  
U.S. DISTRICT  
2007 OCT - 2  
S.D. OF N.Y.

Defendant Mutual of Omaha Insurance Company ("Mutual of Omaha") sued in an action entitled "Ann Boynton v. Occupations, Inc. and Mutual of Omaha Insurance Company", Index No. 8240-2007, brought in the Supreme Court of the State of New York, County of Orange, hereby removes this civil action from the Supreme Court of the State of New York, County of Orange, to the United States District Court, Southern District of New York, and give notice hereof, upon the following, in accordance with 28 U.S.C. § 1446:

1. An action with the title set forth above was commenced by plaintiff in the Supreme Court of the State of New York, County of Orange, on August 30, 2007. This action is a civil action to recover disability benefits allegedly due the plaintiff under a group long-term disability insurance policy.
3. Defendant Mutual of Omaha is incorporated in Nebraska, with its principal place of business located at Omaha Plaza, Omaha, Nebraska.
4. Plaintiff is a resident of the County of Orange, State of New York.

5. Upon information and belief, Defendant Occupations, Inc. maintains its principal place of business in County of Orange, State of New York.

6. Plaintiff seeks to recover disability benefits allegedly due under a group long-term disability insurance policy issued to defendant Occupations, Inc. covering its employees (the "Plan").

7. The Plan is an employee welfare benefit plan as defined in the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. 1002.

8. The action is one in which the District Court has exclusive jurisdiction by reason of ERISA, 29 U.S.C. §1132(e) and (f), without regard to citizenship of the parties or amount in controversy.

9. Service upon defendant Mutual of Omaha was effectuated by serving process upon the Superintendent, New York Insurance Department, on September 11, 2007.

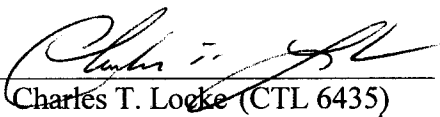
10. This Notice of Removal is being filed within thirty days of service upon the defendants of the initial pleadings.

11. Copies of all pleadings and process served on defendant Mutual of Omaha by plaintiff are annexed hereto as Exhibit A.

WHEREFORE, defendant Mutual of Omaha Insurance Company requests that this case proceed as an action properly removed hereto.

Dated: September 28, 2007  
New York, New York

LOCKE & HERBERT LLP  
Attorneys for Defendant  
Mutual of Omaha Insurance Company

By:   
Charles T. Locke (CTL 6435)  
1114 Avenue of the Americas, 40<sup>th</sup> Fl.  
New York, New York 10036  
(212) 935-8787